

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FREDDIE JONES, LUKE JONES,)	
TRENNA JONES, RALPH JONES, LAVON)	
JONES, and JIMMY FREEMAN, as)	
Surviving Children of ELNORA JONES,)	
Deceased,)	
)	
Plaintiffs,)	
)	Case No. 07-cv-02120DP
vs.)	
)	JURY DEMAND
ABBOTT LABORATORIES,)	
)	
Defendant.)	

**ABBOTT LABORATORIES' MOTION FOR LEAVE TO FILE REPLY
MEMORANDUM IN SUPPORT OF ITS MOTION FOR PROTECTIVE ORDER
QUASHING PLAINTIFFS' REQUEST FOR ABBOTT'S ADVERSE EVENT REPORTS
DATABASE IN EXCESS OF PAGE LIMIT
AND INCORPORATED MEMORANDUM IN SUPPORT**

Comes now Defendant Abbott Laboratories ("Abbott"), by and through counsel, pursuant to Local Rule 7.2(c) and respectfully moves this Court for leave to file a 6-page Reply memorandum in support of its Motion for Protective Order Quashing Plaintiffs' Request for Abbott's Adverse Event Reports Database. In support, Abbott states as follows:

On June 10, 2011, Abbott filed a Motion for Protective Order Quashing Plaintiffs' Request for Abbott's Adverse Event Reports Database ("Motion for Protective Order"). [Doc. #150]. Shortly thereafter, on June 13, 2011, a hearing on Plaintiffs' Emergency Motion to Compel [Doc. #138], Abbott' Motion for a Protective Order Limiting the Scope of Plaintiff's Rule 30(b)(6) Deposition Notices [Doc. #140], and Abbott's current Motion for Protective Order [Doc #150] was held before Magistrate Judge Pham. After hearing arguments from all parties,

the Court reset the matters for further hearing on June 23, 2011 to hear testimony from witnesses. On June 20, 2011, Plaintiffs filed their Response in Opposition to Abbott's Motion for Protective Order ("Response"). [Doc. #153].

Based on the Response filed by Plaintiffs, Abbott hereby seeks leave of this Court to file a 6-page Reply memorandum in support of its Motion for Protective Order in excess of the 5 page limit set forth in Local Rule 7.2(e). Abbott believes that certain arguments made by Plaintiffs in their Response warrant a reply from Abbott. Specifically, Abbott's proposed Reply demonstrates, among other things, the following: 1) Plaintiffs have failed to demonstrate a particularized need for the production of Abbott's AEGIS database because their proposed proportional reporting rate ("PRR") analysis is irrelevant; 2) even if Plaintiffs' proposed PRR analysis were relevant, Plaintiffs have not shown that they need data from Abbott's AEGIS database to conduct it; 3) Plaintiffs ignore the authorities cited by Abbott and rely exclusively on unreported orders that have little to no persuasive force; and 4) Plaintiffs' technical expert should not be permitted to participate in the June 23, 2011 hearing without prior disclosure of his testimony. Permitting Abbott to file its Reply will more clearly define the issues pending before the Court which are to be addressed at the June 23, 2011 hearing.

WHEREFORE, Abbott Laboratories respectfully requests that this Court grant it leave to file its Reply memorandum in support of its Motion for Protective Order Quashing Plaintiffs' Request for Abbott's Adverse Event Reports Database attached hereto as Exhibit 1, and award any further relief as the Court deems just and proper.

Respectfully submitted,

s/ Robert F. Tom

Michael P. Foradas, P.C.

Renee D. Smith

Andrew P. Bautista

Kirkland & Ellis LLP

300 North LaSalle

Chicago, IL 60654

Telephone: 312.862.2000

Jill M. Steinberg (#11603)

Emily Turner Landry (#22157)

Robert F. Tom (#26636)

Baker, Donelson, Bearman,

Caldwell & Berkowitz, PC

165 Madison Avenue, Suite 2000

Memphis, Tennessee 38103

Telephone: 901.526.2000

jsteinberg@bakerdonelson.com

elandry@bakerdonelson.com

rtom@bakerdonelson.com

Attorneys for Defendant Abbott Laboratories

CERTIFICATE OF CONSULTATION

I hereby certify that on June 22, 2011, Andrew Bautista, Esq., counsel for Defendant, consulted via telephone with Fred Shepherd, Esq., counsel for Plaintiffs, who stated that Plaintiffs are opposed to this motion.

s/ Robert F. Tom _____

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 22nd day of June, 2011, a copy of the foregoing was served on the parties listed below via operation of the electronic filing system of the United States District Court for the Western District of Tennessee:

Arnold Anderson Vickery
Fred H. Shepherd
One Riverway, Suite 1150
Houston, TX 77056

Edmund J. Schmidt III
Law Office of Eddie Schmidt
1720 west End Ave., Suite 300
Nashville, TN 37203

s/ Robert F. Tom _____